

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1003

Introduced by Giese, 17.

Read first time January 20, 2010

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to elections; to amend sections 32-314,
2 32-329, 32-915, 32-929, 32-933, 32-935, 32-936, 32-1002,
3 32-1530, and 32-1532, Reissue Revised Statutes of
4 Nebraska; to authorize provisional ballots for registered
5 voters changing residence within Nebraska; to harmonize
6 provisions; to provide an operative date; and to repeal
7 the original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 32-314, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-314 (1) Any person going into another territory or
4 state and registering to vote or voting in that territory or state
5 shall lose his or her eligibility to vote in this state. Any person
6 going into another county of this state and registering to vote or
7 voting in that county shall lose his or her eligibility to vote in
8 the county where he or she was registered.

9 (2) A registered voter who changes his or her residence
10 in one county to a residence address in a different county
11 in the state shall register again or update his or her voter
12 registration record in order to be eligible to vote. avoid
13 additional requirements at the time of voting as provided in
14 sections 32-914 and 32-915 and may be entitled to vote pursuant to
15 section 32-914.01, 32-914.02, or 32-915.

16 (3) A registered voter who changes his or her name or
17 residence within the county and has retained legal residence in
18 the county since the date of his or her last registration shall
19 register again or update his or her voter registration record to
20 avoid additional requirements at the time of voting as provided in
21 sections 32-914 and 32-915 and may be entitled to vote pursuant to
22 section 32-914.01, 32-914.02, or 32-915.

23 (4) A registered voter who wants to change his or her
24 party affiliation for purposes of a primary election shall complete
25 a registration application pursuant to section 32-312.04 and submit

1 it to the election commissioner or county clerk as provided in and
2 prior to the deadline prescribed by section 32-302 or 32-321.

3 Sec. 2. Section 32-329, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 32-329 (1) The Secretary of State with the assistance
6 of the election commissioners and county clerks shall perform
7 list maintenance with respect to the computerized statewide voter
8 registration list on a regular basis. The list maintenance shall be
9 conducted in a manner that ensures that:

10 (a) The name of each registered voter appears in the
11 computerized list;

12 (b) Only persons who have been entered into the register
13 in error or who are not eligible to vote are removed from the
14 computerized list; and

15 (c) Duplicate names are eliminated from the computerized
16 list.

17 (2) The election commissioner or county clerk shall
18 verify the voter registration register by using (a) the National
19 Change of Address program of the United States Postal Service
20 and a confirmation notice pursuant to subsection (3) of this
21 section or (b) the biennial mailing of a nonforwardable notice
22 to each registered voter. The Secretary of State shall provide
23 biennial training for the election commissioners and county clerks
24 responsible for maintaining voter registration lists. No name shall
25 be removed from the voter registration register for the sole reason

1 that such person has not voted for any length of time.

2 (3) When an election commissioner or county clerk
3 receives information from the National Change of Address program
4 of the United States Postal Service that a registered voter has
5 moved from the address at which he or she is registered to
6 vote, the election commissioner or county clerk shall immediately
7 update the voter registration register and mail a confirmation
8 notice by forwardable first-class mail. If a nonforwardable
9 notice under subdivision (2)(b) of this section is returned as
10 undeliverable, the election commissioner or county clerk shall
11 mail a confirmation notice by forwardable first-class mail. The
12 confirmation notice shall include a confirmation letter and a
13 preaddressed, postage-paid confirmation card. The confirmation
14 letter shall contain statements substantially as follows:

15 (a) The election commissioner or county clerk has
16 received information that you have moved to a different residence
17 address from that appearing on the voter registration register;

18 (b) If you have not moved or you have moved to a new
19 residence within this ~~county~~, state, you should return the enclosed
20 confirmation card by the regular registration deadline prescribed
21 in section 32-302. If you fail to return the card by the deadline,
22 you will be required to affirm or confirm your address prior to
23 being allowed to vote. If you are required to affirm or confirm
24 your address, it may result in a delay at your polling place; and

25 (c) If you have moved out of the ~~county~~, state, you must

1 ~~reregister~~ comply with the law of your state of residence to be
2 eligible to vote. ~~This can be accomplished by mail or in person.~~
3 ~~For further information,~~ contact your local election commissioner
4 or county clerk.

5 (4) The election commissioner or county clerk shall
6 maintain for a period of not less than two years a record of
7 each confirmation letter indicating the date it was mailed and the
8 person to whom it was mailed.

9 (5) If information from the National Change of Address
10 program or the nonforwardable notice under subdivision (2)(b)
11 of this section indicates that the voter has moved outside the
12 jurisdiction and the election commissioner or county clerk receives
13 no response to the confirmation letter and the voter does not offer
14 to vote at any election held prior to and including the second
15 statewide federal general election following the mailing of the
16 confirmation notice, the voter's registration shall be canceled
17 and his or her name shall be deleted from the voter registration
18 register.

19 Sec. 3. Section 32-915, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 32-915 (1) A person whose name does not appear on the
22 precinct list of registered voters at the polling place for the
23 precinct in which he or she resides or whose name appears with a
24 notation that he or she received a ballot for early voting may vote
25 a provisional ballot if he or she:

1 (a) Claims that he or she is a registered voter who has
2 continuously resided in ~~the county in which the precinct is located~~
3 Nebraska since registering to vote;

4 (b) Is not entitled to vote under section 32-914.01 or
5 32-914.02;

6 (c) Has not registered to vote or voted in any other
7 ~~county state~~ since registering to vote in the county in which the
8 ~~precinct is located;~~ Nebraska;

9 (d) Has appeared to vote at the polling place for the
10 precinct to which the person would be assigned based on his or her
11 residence address; and

12 (e) Completes and signs a registration application before
13 voting.

14 (2) A voter whose name appears on the precinct list
15 of registered voters for the polling place with a notation
16 that the voter is required to present identification pursuant
17 to section 32-318.01 but fails to present identification may vote a
18 provisional ballot if he or she completes and signs a registration
19 application before voting.

20 (3) Each person voting by provisional ballot shall
21 enclose his or her ballot in an envelope marked Provisional
22 Ballot and shall, by signing the certification on the front of the
23 envelope or a separate form attached to the envelope, certify to
24 the following facts:

25 (a) I am a registered voter in ~~..... County;~~

1 Nebraska;

2 (b) My name did not appear on the precinct list of
3 registered voters;

4 (c) I registered to vote on or about this date
5

6 (d) I registered to vote
7 in person at the election office or a voter
8 registration site,
9 by mail,
10 on a form through the Department of Motor Vehicles,
11 on a form through another state agency,
12 in some other way;

13 (e) I have not resided outside of ~~this county~~ Nebraska or
14 voted outside of ~~this county~~ Nebraska since registering to vote in
15 ~~this county~~, Nebraska;

16 (f) My current address is shown on the registration
17 application completed as a requirement for voting by provisional
18 ballot; and

19 (g) I am eligible to vote in this election and I have not
20 voted and will not vote in this election except by this ballot.

21 (4) The voter shall sign the certification under penalty
22 of election falsification. The following statements shall be on
23 the front of the envelope or on the attached form: By signing the
24 front of this envelope or the attached form you are certifying to
25 the information contained on this envelope or the attached form

1 under penalty of election falsification. Election falsification
2 is a Class IV felony and may be punished by up to five years
3 imprisonment, a fine of up to ten thousand dollars, or both.

4 (5) If the person's name does not appear on the precinct
5 list of registered voters for the polling place and the judge or
6 clerk of election determines that the person's residence address is
7 located in another precinct within the same county, the judge or
8 clerk of election shall direct the person to his or her correct
9 polling place to vote.

10 Sec. 4. Section 32-929, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 32-929 If a person is challenged on the ground that
13 he or she is not a resident of this state, the county, or the
14 precinct, the person shall answer the following questions on the
15 form provided by the election commissioner or county clerk:

16 Do you have a residence in this state: Yes or No?

17 Do you have a residence in this county: Yes or No?

18 Do you have a residence in this precinct: Yes or No?

19 If a person has moved from one residence to another
20 within the precinct in which he or she is registered to vote, such
21 voter shall be entitled to vote as provided in section 32-914.02.
22 If a person has moved from one residence to another within the
23 ~~county in which he or she is registered to vote,~~ state, such voter
24 shall be entitled to vote a provisional ballot as provided in
25 section 32-915.

1 Sec. 5. Section 32-933, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 32-933 (1) Any person listed in this subsection shall be
4 eligible as a new resident to vote for President and Vice President
5 of the United States at the statewide general election but for no
6 other offices:~~(a)~~ Any citizen of the United States who is at least
7 the constitutionally prescribed age of a voter and who comes into
8 Nebraska after the voter registration period is closed pursuant to
9 section 32-302 for the purpose of making Nebraska his or her place
10 of residence. ~~and~~

11 ~~(b) Any registered voter who moves from one county~~
12 ~~to another county within Nebraska after the close of the voter~~
13 ~~registration period.~~

14 (2) Any registered voter who moves from Nebraska to
15 another state or to the District of Columbia for the purpose of
16 making such new location his or her place of residence after the
17 close of the voter registration period for such location shall
18 be eligible as a former resident to vote for President and Vice
19 President of the United States at the statewide general election
20 but for no other offices.

21 (3) Any person described in subsection (1) of this
22 section shall cast his or her ballot in the office of the election
23 commissioner or county clerk at any time between the close of
24 the voter registration period and the close of the polls on
25 election day. Such ballots shall be available after the close of

1 the voter registration period. Ballots for former residents under
2 subsection (2) of this section shall be available thirty-five days
3 prior to the election. The ballots may be voted in the office
4 of the election commissioner or county clerk at any time between
5 thirty-five days prior to the election and the close of the polls
6 on election day, or the ballots may be mailed to the office and
7 counted if they arrive before the close of the polls on election
8 day.

9 Sec. 6. Section 32-935, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 32-935 The election commissioner or county clerk shall
12 immediately mail the duplicate of the affidavit described in
13 section 32-934 to the appropriate official of the state ~~or county~~
14 ~~in Nebraska~~ in which the applicant last resided. Upon receipt, the
15 election commissioner or county clerk shall file each duplicate
16 application or other official information from another state ~~or~~
17 ~~county in Nebraska~~ or the District of Columbia indicating that
18 a former resident of this state ~~or county in Nebraska~~ has made
19 application to vote at a presidential election in another state
20 ~~or county in Nebraska~~ or the District of Columbia and shall
21 maintain an alphabetical index of such information for a period of
22 twenty-two months after the election.

23 Sec. 7. Section 32-936, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 32-936 If satisfied that the application is proper and

1 that the applicant is qualified to vote under section 32-933,
2 the election commissioner or county clerk shall deliver to the
3 applicant a ballot for President and Vice President of the United
4 States. After voting the ballot, the voter shall securely seal the
5 ballot in an envelope furnished by the election commissioner or
6 county clerk. On the back of the envelope shall be imprinted a
7 statement substantially as follows:

8 Certification of New (or Former) Resident Voter

9 I have qualified as a new (or former) resident voter in
10 this state, ~~or county~~. I have not applied nor do I intend to apply
11 for a ballot for early voting from the state, ~~county in Nebraska,~~
12 or District of Columbia from which I have moved. I have not voted
13 and I will not vote otherwise than by this ballot.

14 The voter shall sign and date the certification upon the
15 envelope. The election commissioner or county clerk shall keep the
16 envelope in his or her office until delivered by him or her to the
17 counting board under section 32-1027.

18 Sec. 8. Section 32-1002, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 32-1002 (1) As the ballots are removed from the ballot
21 box pursuant to sections 32-1012 to 32-1018, the receiving board
22 shall separate the envelopes containing the provisional ballots
23 from the rest of the ballots and deliver them to the election
24 commissioner or county clerk.

25 (2) Upon receipt of a provisional ballot, the election

1 commissioner or county clerk shall verify that the certificate on
2 the front of the envelope or the form attached to the envelope is
3 in proper form and that the certification has been signed by the
4 voter.

5 (3) The election commissioner or county clerk shall also
6 (a) verify that such person has not voted anywhere else in ~~the~~
7 ~~county~~ Nebraska or been issued a ballot for early voting, (b)
8 investigate whether any credible evidence exists that the person
9 was properly registered to vote in ~~the county~~ Nebraska before
10 the deadline for registration for the election, (c) investigate
11 whether any information has been received pursuant to section
12 32-309, 32-310, or 32-324 that the person has resided, registered,
13 or voted in any other ~~county~~ ~~or~~ state since registering to vote
14 in ~~the county,~~ Nebraska, and (d) upon determining that credible
15 evidence exists that the person was properly registered to vote in
16 ~~the county,~~ Nebraska, make the appropriate changes to the voter
17 registration register by entering the information contained in the
18 registration application completed by the voter at the time of
19 voting a provisional ballot.

20 (4) A provisional ballot cast by a voter pursuant to
21 section 32-915 shall be counted if:

22 (a) Credible evidence exists that the voter was properly
23 registered in ~~the county~~ Nebraska before the deadline for
24 registration for the election;

25 (b) The voter has resided in ~~the county~~ Nebraska

1 continuously since registering to vote in ~~the county~~, Nebraska;

2 (c) The voter has not voted anywhere else in ~~the county~~
3 Nebraska or has not otherwise voted early using a ballot for early
4 voting;

5 (d) The voter has completed a registration application
6 prior to voting and:

7 (i) The residence address provided on the registration
8 application completed pursuant to subdivision (1)(e) of section
9 32-915 is located within the precinct in which the person voted;
10 and

11 (ii) If the voter is voting in a primary election,
12 the party affiliation provided on the registration application
13 completed prior to voting the provisional ballot is the same party
14 affiliation that appears on the voter's voter registration record
15 based on his or her previous registration application; and

16 (e) The certification on the front of the envelope or
17 form attached to the envelope is in the proper form and signed by
18 the voter.

19 (5) A provisional ballot cast by a voter pursuant to
20 section 32-915 shall not be counted if:

21 (a) The voter was not properly registered in ~~the county~~
22 Nebraska before the deadline for registration for the election;

23 (b) Information has been received pursuant to section
24 32-309, 32-310, or 32-324 that the voter has resided, registered,
25 or voted in any other ~~county~~ ~~or~~ state since registering to vote

1 in the county in which he or she cast the provisional ballot,
2 Nebraska;

3 (c) Credible evidence exists that the voter has voted
4 elsewhere or has otherwise voted early;

5 (d) The voter failed to complete and sign a registration
6 application pursuant to subdivision (1)(e) of section 32-915;

7 (e) The residence address provided on the registration
8 application completed pursuant to subdivision (1)(e) of section
9 32-915 is ~~in a different county or~~ in a different precinct than the
10 ~~county or~~ precinct in which the voter voted;

11 (f) If the voter is voting in a primary election, the
12 party affiliation on the registration application completed prior
13 to voting the provisional ballot is different than the party
14 affiliation that appears on the voter's voter registration record
15 based on his or her previous registration application; or

16 (g) The voter failed to complete and sign the
17 certification on the envelope or form attached to the envelope
18 pursuant to subsection (3) of section 32-915.

19 (6) Upon determining that the voter's provisional ballot
20 is eligible to be counted, the election commissioner or county
21 clerk shall remove the ballot from the envelope without exposing
22 the marks on the ballot and shall place the ballot with the ballots
23 to be counted by the county canvassing board.

24 (7) The election commissioner or county clerk shall
25 notify the system administrator of the system created pursuant to

1 section 32-202 as to whether the ballot was counted and, if not,
2 the reason the ballot was not counted.

3 (8) The verification and investigation shall be completed
4 within seven days after the election.

5 Sec. 9. Section 32-1530, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 32-1530 Any person who votes (1) who is not a resident
8 of this state or registered in ~~the county~~ this state or who at the
9 time of election is not of the constitutionally prescribed age of
10 a registered voter, (2) who is not a citizen of the United States,
11 or (3) after being disqualified by law by reason of his or her
12 conviction of a felony and prior to the end of the two-year period
13 after completing the sentence, including any parole term, shall be
14 guilty of a Class IV felony.

15 Sec. 10. Section 32-1532, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 32-1532 Any person who procures, aids, assists, counsels,
18 or advises another to give his or her vote, knowing that such other
19 person is not a resident of this state or a registered voter of ~~the~~
20 ~~county~~ this state as required by law at the time of election, is
21 not of the constitutionally prescribed age of a registered voter,
22 is not a citizen of the United States, or is not duly qualified as
23 a result of any other disability to vote at the place where and the
24 time when the vote is to be given shall be guilty of a Class IV
25 felony.

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1 Sec. 11. This act becomes operative on January 1, 2011.

2 Sec. 12. Original sections 32-314, 32-329, 32-915,
3 32-929, 32-933, 32-935, 32-936, 32-1002, 32-1530, and 32-1532,
4 Reissue Revised Statutes of Nebraska, are repealed.